

IN THE COURT OF SH. DHARMESH SHARMA,
PRINCIPAL JUDGE, FAMILY COURT CENTRAL
DISTRICT, TIS HAZARI, DELHI

HMA No. 5861365 / 2016

In re:

Mr. A. K. Vashishtha
S/o Sh. Chandra Bhan Vashishtha
R/o Village Ram Nagar,
Post Barauli District Etah, UP

Presently : H. No. 11, Type-4,
Police Line, Behraich.

.....Petitioner

Versus

Smt. Reeta Vashishtha
W/o Sh. Anil Kumar Vashishtha
D/o Sh. Shriwas Dixit
R/o Dixit Bhawan, Agra Road, Hathras, UP

.....Respondent

Date of Institution : 09.07.2001
Date on which judgment is reserved : 24.08.2017
Date of Decision : 16.09.2017

Appearances:- Mr. Anil Sharma, Advocate for the petitioner.
Mr. D. K. Sharma, advocate for the respondent.

JUDGEMENT

1. The petitioner husband is seeking divorce from the respondent wife on the ground of 'cruelty' in terms of Section 13 (1) (ia) of the Hindu Marriage Act, 1955 as amended upto date (in short hereinafter, "the Act").

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52.

Without further ado, the acts and conduct attributed to the respondent wife, on her own or at the instigation or coaxing of her father (RW1) considered cumulatively during the entire history of this litigation certainly bring home that the petitioner husband has been subjected to great deal of mental harassment, torture and cruelty. The acts or the conduct on the part of the respondent wife since the time litigation started, demonstrate that all through she acted out of sheer vengeance, leaving no scope of reconciliation that has led to a complete or irretrievable breakdown of marriage as well. As observed earlier by this Court, the petitioner husband too had his share of blemishes. Perhaps he wasn't an ideal husband and perhaps he could have acted more positively to work out the compatibility issues between the two of them, being a judicial officer, but then in matrimonial disputes, the Law does not look for perfection in the spouses. Had they been ideal couple, they would not have been litigating with each other. Unfortunate as it may look, what the respondent wife has done is ^{not} only to shut the door but also all windows of reconciliation, and that rules out even a slightest prospect of resumption of marital union. Therefore, in the climax plot of the sordid saga, the petitioner husband is able to prove that the respondent wife has subjected him to great deal of mental cruelty within the

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ambit and scope of section 13(1)(a) of the Act. The petitioner husband cannot be expected to put up with such behaviour and resume cohabitation with the respondent wife.

53. In the said view of the matter, issue no. 1 & 2 are decided in favour of the petitioner husband and against the respondent wife.

FINALE

54. Before bringing down the curtains on this case, we have to take a holistic view about the change in the social and economic status as well the circumstances in the life of the parties, and it bears in my mind that now the respondent wife is battling with cancer, a tumor in the throat although benign, for which she recently has had a surgery at Rajeev Gandhi Cancer Hospital, Delhi. She is now about 42-43 years of age, hardly in a capacity to earn for herself and with grown up children is unlikely to marry again in future. She has been totally dependent upon her father and sustaining her livelihood with the aid of ad-interim maintenance granted to her during the trial. The elder son of the parties is presently studying and pursuing a course in Chartered Accountancy, and the girl is now around 18 years of age studying B.Com (Hons) at Kanpur and after few years would be of marriageable age.



55. It would be expedient to point that this Court, being a Family Court, has ample powers vide the object and section 10(3) of the Family Courts Act, 1984, to pass appropriate directions for payment of maintenance even to an adult child in these proceedings in terms of Section 20(3) of the Hindu Adoption and Maintenance Act, 1956, to provide expeditious relief to the parties. Reference can be had to decision in the case of **Jayvardhan Chapotkot v Ajayveer Chapotkat, 2014 SCC On Line Bom 465**, wherein maintenance was granted to the child unable to maintain himself up to the age of 26 years, u/s 24 & 26 of the Act. It was observed that "in case where the parents are well educated and economically sound, the children can claim maintenance despite attaining age of majority in order to enable them to pursue higher education". It was observed that the children remain dependent on their parents for education and other purposes even after attaining age of majority. In another case, **Reeta Dutta v. Subandan Dutta 2005 (6) SSC 619**, maintenance was granted to two adult sons/brothers to facilitate them to complete their higher education in divorce proceedings and taking a broad view of the matter u/s 24 of the Hindu Marriage Act, 1955. Further in another case titled **Jagdish v. Manju Lata, 2002 5 SSC 422**, in proceedings under Section 125 Cr.P.C, the daughter even after attaining the

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age of majority was granted maintenance in the light of the provision u/s 20 (3) of the Hindu Adoption and Maintenance Act to avoid multiplicity of proceedings and the impugned order of the Family Court granting maintenance on combined reading of S.125 Cr.P.C and Section 20(3) of HAM Act was sustained.

56. Therefore, in exercise of the powers under section 25 of the Act read with section 10(3) of the Family Courts Act, 1984, in order to avoid another round of litigation between the parties and to scuttle multiplicity of proceedings and provide speedy relief in the overall interest of the parties, whose lives are going to be affected by his judgment, it is directed that the petitioner husband shall keep paying maintenance @ of Rs.50,000/- per month to the respondent wife for her maintenance as well as for the maintenance of their daughter w.e.f., 1st June 2017 till such time the daughter becomes self reliant or her marriage, whichever is earlier. On the happening of that event i.e., regarding their daughter, the respondent wife shall be entitled to monthly maintenance @ of 1/4th of the basic pay plus DA, CCA, special allowance, if any, as may be applicable to the petitioner husband during his remaining service tenure and thereafter, till such time she is alive and/or make herself disentitled to such relief for any justifiable legal grounds. The amount of maintenance so provided shall be deposited/credited

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in the bank account of the respondent wife by the 10th day of each succeeding month, and failing which any default on the part of the petitioner husband shall be visited with penalty/ costs of Rs. 1,000/- per day of default. The petitioner husband shall ensure that the directions of this Court is conveyed to the D.D.O., in his establishment for necessary compliance w.e.f., 1st November 2017. Before parting, the petitioner husband shall endeavour to complete all necessary formalities in order to ensure that the expenses incurred on the medical treatment of the respondent wife till date are reimbursed to her as per the Rules.

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RELIEF

57. Accordingly, the present petition is allowed and a decree for dissolution of marriage is granted in favor of the petitioner husband and against the respondent wife in terms of Section 13 (1) (ia) of the Act. In the circumstances of the case, the parties are left to bear their own costs. Decree sheet be prepared accordingly. The file be consigned to Record Room.

Announced in the open Court
on 16.09.2017

Dharmesh Sharma
(Dharmesh Sharma)

Principal Judge Family Court
Cent Distt./Tis Hazari Courts, Delhi.

ATTACHED
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